IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

W.P.(C).No.21904 of 2005(G)

PETITIONER:-

---

* KORA ABRAHAM, S/O.KORA, AGED 65 YEARS,
RESIDING AT ANITHOTTATHIL HOUSE, KAROOR P.O. (DIED)

* ADDITIONAL PETITIONERS 2 TO 5 IMPLEADED

ADDL.2. THRESIAMMA ABRAHAM, ANITHOTATHIL HOUSE, KAROOR P.O.

ADDL.3. GEORGE KUTTY ABRAHAM, ANITHOTATHIL HOUSE, KAROOR P.O.

ADDL.4. THOMASKUTTY ABRAHAM, ANITHOTATHIL HOUSE, KAROOR P.O.

ADDL.5. JOYAMMA ABRAHAM, ANITHOTATHIL HOUSE, KAROOR P.O.

* LEGAL HEIRS OF DECEASED WRIT PETITIONER ARE IMPLEADED AS ADDITIONAL PETITIONERS 2 TO 5 AS PER ORDER ON I.A. NO.2345 OF 2007 DATED 19.02.2007.

BY ADV. SRI.P.C.HARIDAS

RESPONDENTS:-

---

1. THE REGSITRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.

2. THE SPECIAL SALE OFFICER,
MEENACHIL CO-OPERATIVE AND AGRICULTURAL RURAL DEVELOPMENT BANK LTD., PALA.

3. MEENACHIL CO-OPERATIVE AND AGRICULTURAL RURAL DEVELOPMENT BANK LTD.NO.K.197,
PALA, REP. BY ITS SECRETARY.

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN.
R3 BY STANDING COUNSEL SRI.SUNIL CYRIAC.

ADV. SRI.T.S.RADHAKRISHNA PILLAI
SRI.T.R.RAJEEV

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Padmanabhan Nair,J.

W.P.(C).No.21904 of 2005-G

Dated, this the 19th day of February, 2007

JUDGMENT

Deceased writ petitioner was a guarantor to four loans availed by his children. Since the debtors committed default, the Bank initiated steps to recover the amount. At that stage, the petitioner filed this writ petition for quashing Exhibit P1 order, by which the properties of the petitioner were brought to sale.

2. This Court passed an interim order directing the petitioner to deposit Rs.55,000/- per month payable on or before 20th of every month. Admittedly, the petitioner did not comply with the condition. During the pendency of this proceedings, the writ petitioner died and his legal representatives got themselves impleaded. Counsel for the petitioners submits that even if the Court finds that Exhibit P1 cannot be quashed, a direction may be issued to the Bank to consider the request of the petitioners for One Time Settlement. The counsel appearing for the Bank opposed the prayer on the ground that the writ petitioner was a wilful defaulter and further he wilfully failed to comply with the condition imposed by this Court.

3. It is true that the writ petitioner failed to comply with the condition. But still, I am inclined to give one more opportunity to the petitioners to save the property from sale. In case the petitioners pay an amount of Rupees One Lakh within one month from today and file an application claiming the benefit of One Time Settlement, the Bank shall consider the same and pass appropriate orders in accordance with law.

In the result, the writ petition is disposed of in the following manner: The prayer to quash Exhibit P1 is refused. In case the petitioners deposit Rupees One Lakh within one month from today and makes an application, the Bank shall consider the request for One Time Settlement and pass appropriate orders within six weeks from that date. The coercive steps initiated for sale of the properties shall stand adjourned till the Bank takes a decision. It is made clear that in case the petitioners fail to deposit the amount as ordered above, it is open to the Bank to proceed with the sale of the properties.

K.Padmanabhan Nair
Judge

vku/-